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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
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9 Michael Graham,

10 Plaintiff,

11 v.

12 Continental Bancorp, et al.,

13 Defendants.  
14

No. CV-17-4806-PHX-DKD

**REPORT AND RECOMMENDATION**

15 TO THE HONORABLE STEPHEN M. MCNAMEE, SENIOR U.S. DISTRICT JUDGE:

16 The Complaint in this matter was filed December 29, 2017. On April 9, 2018, the  
17 Court issued an order directing the Plaintiff to show good cause why this matter should  
18 not be dismissed for failure to serve Defendants pursuant to Rule 4(m) of the Federal  
19 Rules of Civil Procedure (Doc. 10). In that order Plaintiff was warned that failure to  
20 comply with the Court's order may result in the dismissal of this matter. Plaintiff has  
21 failed to comply with the Court's order and has not served Defendants in this matter.

22 Accordingly, **IT IS RECOMMENDED** that the Court dismiss this matter.

23 This recommendation is not an order that is immediately appealable to the Ninth  
24 Circuit Court of Appeals. Any notice of appeal pursuant to Rule 4(a)(1), Federal Rules  
25 of Appellate Procedure, should not be filed until entry of the district court's judgment.  
26 The parties shall have fourteen days from the date of service of a copy of this  
27 recommendation within which to file specific written objections with the Court. *See*, 28  
28 U.S.C. § 636(b)(1); Rules 72, 6(a), 6(b), Federal Rules of Civil Procedure. Thereafter,

1 the parties have fourteen days within which to file a response to the objections. Failure  
2 timely to file objections to the Magistrate Judge's Report and Recommendation may  
3 result in the acceptance of the Report and Recommendation by the district court without  
4 further review. *See United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9<sup>th</sup> Cir. 2003).  
5 Failure timely to file objections to any factual determinations of the Magistrate Judge will  
6 be considered a waiver of a party's right to appellate review of the findings of fact in an  
7 order or judgment entered pursuant to the Magistrate Judge's recommendation. *See*  
8 Rule72, Federal Rules of Civil Procedure.

9 Dated this 10th day of May, 2018.

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David K. Duncan  
United States Magistrate Judge

cc: SMM